

## ***REMARKS***

The Examiner required restriction of one of the following two inventions:

- I. Claims 23 and 24, drawn to a semiconductor device, classified in class 257, subclass 1+.
- II. Claims 1-22 and 25, drawn to a method of making a semiconductor, classified in class 438, subclass 585.

In response to the Examiner's restriction/election requirement, Applicants elect, with traverse, to prosecute Group II including claims 1-22 and 25. Applicants specifically reserve the right to file a divisional application directed to non-elected claims 23 and 24.

With respect to Applicants' traversal, Applicants respectfully direct the Examiner's attention to M.P.E.P. § 803 which states:

"If the search and examination of an entire application can be made without serious burden, the Examiner must examine on the merits, even though it includes claims too distinct or independent invention." (emphasis added)

There are two criteria for a proper requirement for restriction. The invention should be independent or distinct, and

"2) there must be a serious burden on the Examiner if a restriction is not required. See M.P.E.P. § 803.092, 806.04 A through J, 808.01(a) and 808.02."

Applicants respectfully submit that given the intimate relationship between the structure of a semiconductor device and the process steps used to manufacture the semiconductor device,

Examiner would not be unduly burdened if forced to examine the claims of both Group I and Group II in the same application.

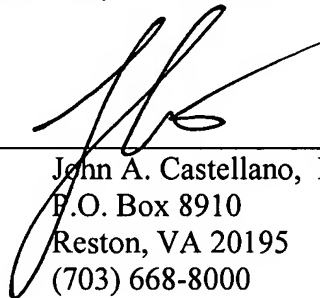
For all of the above stated reasons, reconsideration and withdrawal of the pending restriction/election requirement and favorable action on all claims in the instant application are earnestly solicited.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By



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